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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,090	09/03/1999	ALAIN P. LEVESQUE	07923/120001	6316

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EXAMINER

ROUVAS, NIKOLAOS

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/390,090

Applicant(s)

LEVESQUE ET AL.

Examiner

Nikolaos Rouvas

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-11 and 13-24.

Claim(s) withdrawn from consideration: 12.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: The proposed amendments to claims 20-24 would require further search and consideration as to the merits.

DETAILED ACTION

Advisory Action

Applicant's arguments filed on 3/3/03 have been fully considered but they are not persuasive.

In regards to claim 1, applicant argues that Yifrach does not disclose pausing a real-time frame in a transition from a real-time mode to a delayed-time mode, and cites column 5, lines 10-11. As indicated in the prior office action, Yifrach discloses a "Freeze Button" and a "Playback Button" whose operation is discussed in column 5, lines 12-24. The portion cited by the applicant refers to the operation of the system when the Freeze button is depressed twice, which is different than the operation when the user depresses the Freeze button followed by the Playback button. Here, the "frozen" frames can be selected to be viewed in a delayed manner and not in a real-time manner as argued by applicant.

In regards to claim 2, the applicant draws the applicant's attention to column 4, lines 1-9: "This causes... to switch from the Normal-Viewing Mode to the Delayed-Viewing Mode. In this mode... video circuits are connected to receive... in a delayed-time manner... via **the cyclic storage device 23**... so that the viewer sees the broadcast not in real-time, but rather in a... delayed time." Furthermore, applicant's attention is drawn to column 4, lines 64-68: "when the Freeze button is depressed... the cyclic storage device... transfer its contents... to the further storage device" 30. Therefore, the contents of further storage device **are time-shifted frames** that were stored in cyclic storage device 23.

In regards to claim 20, it is unclear as to what element the applicant argues the Yifrach reference does not teach. The claim first requires a real-time decoder, which the examiner

Art Unit: 2614

admittedly indicated that it is **not** disclosed in the Yifrach reference and appropriately addressed that issue. Secondly, the claim requires a frame storage system and a time-shifted decoder coupled to it, which is further coupled to a display device. As indicated in the Final Office Action, the D/A converter corresponds to the time-shifted decoder and **does** generate an output viewable by a display device. The frame storage device is **not** the one generating the output viewable by a display device; hence, applicant's argument is spurious. Applicant also argues that a connection between a D/A converter and a frame storage system is not addressed and that the proposed modified system would change the principle operation taught by Yifrach because no means would exist to convert the decompressed digital frames into analog form. The examiner submits that as widely known in the industry, D/A converters perform this exact operation, converting digital signals to analog. More explicitly, the proposed modification decompressor – frame storage system – D/A converter would not improperly change the principle operation of the reference.

In regards to claim 22, the examiner submitted that it is rejected for the same reasons claims 20 and 21 were rejected. The issue of receiving compressed digital video input was addressed in those claims. (See page 5, lines 12-15).

Further in regards to claims 20-22 and the argument that no motivation exists to modify the Yifrach reference, the examiner submits the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347,

Art Unit: 2614

21 USPQ2d 1941 (Fed. Cir. 1992). In this case, adding a frame storage system would enable the system to be make more accurate when retrieving frames (the fact that the system operates in a digital environment making this even more justified), which is a concept clearly know in the art at the time the invention was made.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

As to the rest of the claims, the applicant submitted that they were patentable assuming that the rejections were overcome. The examiner submits that the rejections have not been overcome, therefore, the rejected status of these claims still holds.

Finally, in regards to the amendments to claims 20-24, they were not entered as they raise new issues that would require further consideration and search.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Nikolaos Rouvas** whose telephone number is **(703) 305-6955**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John Miller**, can be reached at **(703) 305-4795**.

Art Unit: 2614

Any response to this action should be mailed to:

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or faxed to:

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600